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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 20, 2003

JOINT APPLICATION OF

J.W. HOLDINGS, INC.

AND

MARINERS LANDING WATER &
SEWER COMPANY, INC.

CASE NO. PUE-2002-00235

For authority to acquire and dispose
of utility assets pursuant to the
Utility Transfers Act and for the
issuance of a certificate of public
convenience and necessity pursuant to
Va. Code §§ 56-265.2 and 56-265.3

FINAL ORDER

On April 16, 2002, J.W. Holdings, Inc. ("J.W. Holdings"),
and Mariners Landing Water & Sewer Company, Inc. (the
"Company"), (collectively, the "Joint Applicants"), filed an
application ("Application") seeking authority pursuant to the
Utility Transfers Act, Chapter 5 of Title 56 of the Code of
Virginia ("Code"), and § 56-265.2 of the Code for J.W. Holdings
to dispose of, and for the Company to acquire, certain water
system assets pursuant to a license agreement between the two
parties.

The Joint Applicants also request that the Commission,
pursuant to § 56-265.3 of the Code, issue the Company a
certificate of public convenience and necessity to provide water

service to the residents of Mariners Landing community and approve the Company's proposed rates, rules, and regulations of service.

On May 6, 2002, the Joint Applicants filed a Motion for Expedited Hearing arguing that the Company needed to make capital improvements, and that the pending Application with the Commission could impact its ability to obtain financing. The Joint Applicants requested that a hearing be scheduled as expeditiously as possible.

The Commission entered a Preliminary Order on May 10, 2002, declaring the Company's rates to be interim and subject to refund while the Staff investigated the reasonableness of such rates. The Commission also directed the Staff to respond to the Motion for Expedited Hearing. A Hearing Examiner was assigned to conduct all further proceedings.

The Staff's Response to the Motion for Expedited Hearing was filed on May 20, 2002. Explaining its role in reviewing the Application and noting that no separate financial information for the water system existed, the Staff stated that it would be unable to perform its review and participate in any hearing scheduled before September 2002.

On June 19, 2002, the Hearing Examiner issued a ruling denying the Motion for Expedited Hearing, scheduling the matter for hearing on September 19, 2002, and establishing a procedural

schedule.

On August 27, 2002, the Staff filed a Motion for Extension of Procedural Schedule stating that the employee responsible for conducting the audit of the Joint Applicants' financial records had health issues that precluded him from completing the audit until mid-September 2002. The Joint Applicants had no objection to the modification of the procedural schedule.

The Hearing Examiner granted the Staff Motion for Extension of Procedural Schedule on August 28, 2002. The hearing was rescheduled for November 14, 2002, and the procedural schedule was modified accordingly. Notice of the change was given to the Company's customers.

On November 14, 2002, the evidentiary hearing was convened as scheduled. Wilburn C. Dibling, Jr., Esquire, appeared on behalf of the Joint Applicants, and Katharine A. Hart, Esquire, appeared on behalf of the Staff. Counsel for the Joint Applicants and the Staff presented a Stipulation Agreement ("Stipulation") resolving all of the contested issues between them.

Under the Stipulation, the prefiled direct and rebuttal testimony of the Joint Applicants and the prefiled direct testimony of the Staff were admitted into the record without cross-examination. The Stipulation further provides that:

(1) The Joint Applicants accept Staff Witness Armistead's

accounting recommendations on page 11 of his prefiled testimony and Staff Witness Tufaro's recommendations on pages 12-13 of his prefiled testimony, with the exception of his first recommendation;

(2) The Joint Applicants and the Staff agree the \$30 monthly service charge for water service, set forth in the Rate Schedule for the Company's proposed tariff, should be increased to \$33 per month;

(3) The Joint Applicants and the Staff agree to the Total Net Utility Plant figure of \$99,865 in Mr. Armistead's prefiled direct testimony and further agree this figure will be used as the Company's loan balance as of June 30, 2002, upon which interest will be calculated;

(4) The Joint Applicants and the Staff agree the issue of the management fee claimed by the president of the Company will be deferred to a subsequent rate proceeding; and

(5) The Company agrees to refund amounts collected during the interim rate period in excess of the final rates approved in this proceeding.

Two public witnesses appeared at the hearing and testified in opposition to the Application. In addition to expressing concern about the proposed rate and fee increase, Larry Sedell, Vice President of the Mariners Village Condominium Association, indicated that he believed that under the current metering

scheme that the year-round occupants effectively subsidize the operations of the rental management company which cleans linens for certain units that are rented out between June and September. Mr. Sedell alleges that when there is a turnover in occupancy in one of the units owned by J.W. Holdings, the rental management company launders the sheets and towels in one of the units. He believes that during the months of July and August, this usage caused water bills for him and his neighbor to exceed the allocation per unit and incur an additional usage fee. A second public witness, Norman Mattson, vice president and treasurer and a member of the Board of Directors of the Monoacan Shore Homeowners Association, testified regarding his concerns about the proposed rates and fees.

The Hearing Examiner issued his report on January 8, 2003, finding that:

(1) Adequate service to the public at just and reasonable rates will not be impaired or jeopardized by the transfer of water utility assets from J.W. Holdings to the Company;

(2) Pursuant to the Utility Transfers Act, the Commission should approve the transfer of water utility assets from J.W. Holdings to the Company;

(3) Pursuant to § 56-265.2 of the Code, the Commission should issue the Company a certificate of public convenience and necessity to acquire the water utility facilities from J.W.

Holdings;

(4) The Commission should require the Joint Applicants to file a report with the Commission's Director of Public Utility Accounting within 30 days of the transfer of utility assets from J.W. Holdings to the Company notifying the Commission that such transfer has taken place;

(5) The rates, fees, and terms of service resulting from the Stipulation are reasonable;

(6) The Commission should adopt the Stipulation agreed to by the Joint Applicants and the Staff; and

(7) The Commission should require the Company to implement the Staff's recommendations agreed to in the Stipulation.

The Hearing Examiner recommended that the Commission adopt the findings contained in his Report, approve the transfer of utility assets from J.W. Holdings to the Company pursuant to the terms of the license agreement between the two companies, and grant the Company a certificate of public convenience and necessity to operate a water utility. With regard to Mr. Sedell's complaint concerning the rental management company's laundry practices resulting in full-time residents incurring an overage charge, the Hearing Examiner stated that the Staff should continue to investigate whether each condominium unit is being billed for the correct monthly minimum allocation in accordance with the Company's tariff.

NOW THE COMMISSION, having considered the Application, the Hearing Examiner's Report, the Stipulation, and applicable law, is of the opinion and finds that the findings and recommendations of the Hearing Examiner's Report should be adopted. We find that the transfer of water utility assets should be approved pursuant to the Utility Transfers Act. We find that such transfer will not jeopardize or impair the provision of adequate water services at just and reasonable rates. We further find pursuant to §§ 56-265.2 and 265.3 of the Code, that the public convenience and necessity require us to issue a certificate to the Company to provide water service to Mariners Landing residents. We will adopt the Stipulation and approve the Company's proposed rates, charges, rules, and regulations of service as modified therein. We will direct the Company to implement the Staff's recommendations agreed to in the Stipulation.

Further, we find that concerns voiced by Mr. Sedell that he and other year-round residents are billed for excessive usage during the summer months when the rental management company does laundry for certain rental units appear to be legitimate. We will direct the Staff to study the issue raised in this proceeding of whether the billing allocations are being made appropriately and report to the Commission.

Finally, as noted on May 10, 2002, we declared the

Company's rates to be interim and subject to refund while the Staff investigated the reasonableness of such rates. For service connections for other than a single-family dwelling, the interim rate was \$1,400 for a multi-family unit and \$6,800 for 1 inch, \$12,000 for 1.5 inch, \$22,000 for 2 inch, \$44,000 for 3 inch, \$68,000 for 4 inch, and \$137,000 for 6 inch service connections. The Stipulation requires that for connections other than a single-family dwelling, the connection charge to be the actual cost to the Company to complete the connection. We will direct the Company to refund with interest any amounts above the actual cost to the Company received for service connections other than for single-family dwellings.

Accordingly, IT IS ORDERED THAT:

(1) The findings contained in the Hearing Examiner's Report are hereby adopted.

(2) J.W. Holdings is hereby granted authority to dispose of the assets of its water system as described in the Application.

(3) The Company is hereby granted authority to acquire from J.W. Holdings the assets of its water system as described in the Application.

(4) A report shall be submitted to the Commission's Director of Public Utility Accounting no later than 30 days after the transfer of utility assets from J.W. Holdings to the

Company notifying the Commission that such transfer has taken place. The report shall detail the date of transfer, sales price, and accounting entries reflecting the transfer.

(5) The Company shall be granted a certificate of public convenience and necessity, Certificate No. W-310, authorizing it to provide water service to the Mariners Landing community.

(6) The Stipulation between the Joint Applicants and the Staff is hereby adopted. The Company shall implement the Staff's recommendations agreed to in the Stipulation.

(7) The Company's proposed rates, charges, and terms of service as modified by the Stipulation are hereby approved.

(8) On or before April 18, 2003, the Company shall refund with interest any amounts above the actual cost to the Company received for service connections other than for single-family dwellings.

(9) Interest upon the ordered refunds shall be computed from the date payment of each bill was due during the interim period until the date refunds are made, at an average prime rate for each calendar quarter, compounded quarterly. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin, or in the Federal Reserve's Selected Interest Rates ("Selected Interest Rates") (Statistical Release G.13), for the three

months of the preceding calendar quarter.

(10) The refunds ordered in Paragraph (8) above may be accomplished by credit to the appropriate customer's account for current customers (each refund category shown separately on each customer's bill). Refunds to former customers shall be made by check to the last known address of such customers when the refund amount is \$1 or more. The Company may offset the credit or refund to the extent no dispute exists regarding the outstanding balances of its current customers or customers who are no longer on its system. To the extent that outstanding balances of such customers are disputed, no offset shall be permitted for the disputed portion. The Company may retain refunds owed to former customers when such refund amount is less than \$1. However, the Company shall prepare and maintain a list detailing each of the former accounts for which refunds are less than \$1, and in the event such former customers contact the Company and request refunds, such refunds shall be made promptly. All unclaimed refunds shall be handled in accordance with § 55-210.6:2 of the Code of Virginia.

(11) On or before May 16, 2003, the Company shall file with the Division of Energy Regulation a document showing that all refunds have been lawfully made pursuant to this order, and itemizing the costs of the refund and accounts charged. Such itemization of costs shall include, inter alia, computer costs,

the personnel hours, associated salaries, and costs for verifying and correcting the refunds directed in this Order.

(12) The Staff shall study the issue of billing allocation and provide a report to the Commission.

(13) There being nothing further to be done, this matter is hereby dismissed from the Commission's docket of active cases.